IN THE HIGH COURT OF SIKKIM

ORDER SHEET

Wrti Petition (Criminal) .....No. 1 of 2005

Bhuwan Pradhan & 2 Others ..... Petitioners/ Appellant

Versus

State of Sikkim through DGP & Others .. Respondents

Serial No. of Order	Date of Order	Order with Signature	Office Note as to action (if any) taken on Order
1.	06.07.2005	Upon hearing Mr. A. Moulik, learned Senior Counsel assisted by Mr. N. G. Sherpa and Miss Kesang Diki Bhutia, learned Counsel for the petitioners and Mr. S. P. Wangdi, learned Advocate General assisted by Mr. J. B. Pradhan, learned Government Advocate and Mr. Karma Thinlay, learned Assistant Government Advocate for the State – respondents, we are of the view that this matter can be disposed of at this stage considering the nature of the case, and, accordingly, the same is disposed of with the following order :- According to the petitioners, the petitioner No.1 initially lodged an Ezahar to the Officer-in-Charge, Tadong Outpost, Gangtok on 20.6.2005, but instead of investigating the matter, the petitioners were assaulted by the police and also by respondents Nos. 3 and 4 without assigning any reason. Being dissatisfied with the action of the Officer Incharge concerned, they filed another	

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		complaint to the Superintendent of Police concerned on 24.6.2005, a copy of which finds its place at Annexure P-10 appended to the writ petition which is self-explanatory. This fact is not disputed by the petitioners in their writ petition as seen in the statement contained in paragraphs 34 and 35 of it. At the hearing, Mr. S. P. Wangdi, learned Advocate General contended that the Superintendent of Police is conducting an enquiry into the matter, and he is likely to give his finding and decision in the matter according to law very soon. Supporting his statement, the learned Advocate General had produced the related file containing the original copy of the FIR submitted by the petitioners, namely, Bhuwan Pradhan, Cicil Rai and Lhendup Gyamtso Bhutia. It is also contended by the learned Advocate General that there is no allegation in the said complaint as against the respondent No.4, Shri Sisir Chettri. Learned Advocate General further submits that the present Superintendent of Police is on leave at the moment and, as such, the matter has been assigned to the Additional Superintendent of Police concerned by the DIG to make an enquiry in to the matter. We have perused the related file produced by	A Copy of order forwarded to Addl. S.P, East on 11-7-05.

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the learned Advocate General and there are materials on record to establish the factum of existence the FIR and assignment of the duties upon the Additional Superintendent of Police, East Sikkim by DIG on 25.6.2005. According to us, the concerned authority is examining the matter.

After proper application of our mind in this matter, and considering the nature of the case, pros and cons, we are of the view that this Court is not supposed to sit as an appellate authority at this stage when the competent authority is discharging their lawful duties conferred upon them by law under Section 154 Cr.P.C. in the matter. In view of the above position, we hold that this writ petition is premature and, accordingly, it is dismissed, but, no order as to costs.

(N. Surjamani Singh)
Chief Justice (Acting)

(A. P. Subba)
Judge

At/